

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on March 31, 2004.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the level 4 office visits, chiropractic manipulation, manual traction, joint mobilization, electrical stimulation unattended, unlisted procedure-nervous system (64999), medical disability exam by treating doctor, chiropractic manipulative technique, manual therapy technique, medical records, and computer data analysis were not found to be medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. As the level 4 office visits, chiropractic manipulation, manual traction, joint mobilization, electrical stimulation unattended, unlisted procedure-nervous system (64999), medical disability exam by treating doctor, chiropractic manipulative technique, manual therapy technique, medical records, and computer data analysis were not found to be medically necessary, reimbursement for dates of service rendered 6/6/03 through 9/30/03 is denied and the Division declines to issue an Order in this dispute.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

Correspondence submitted by ____, revealed Dr. V desires to withdrawal the fee issues. Therefore no further action is required on the fee issues.

This Decision is hereby issued this 22nd day of October 2004.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division

MQO/mqo

NOTICE OF INDEPENDENT REVIEW DECISION

Date: May 20, 2004

RE:

MDR Tracking #: M5-04-2366-01

IRO Certificate #: 5242

_____ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to _____ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

_____ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

According to the documentation provided for review, the claimant suffered low back pain while carrying a load of dishes in her capacity as a supervisor at a local kitchen. There was a slight delay in care because the claimant felt her pain would go away eventually. The claimant initiated chiropractic care with _____ on 12/4/02. The claimant has also seen _____ for facet injections as well as epidural steroid injections. The claimant has undergone electrodiagnostic tests; however, these tests did not include a needle EMG. The claimant had alleged mild evidence of left sided L4 radiculopathy during dermatomal sensory evoked potential testing. Voluminous amounts of daily notes were reviewed. By my count the claimant had undergone about 77 visits of chiropractic care and related physical therapy through 5/29/03 which was just prior to the dates of service that are in dispute. It appears the claimant received facet injections on 3/11/03. These facet injections reportedly resulted in only 10% relief for the claimant. The claimant reportedly underwent epidural steroid injections; however, this only helped for about 3-4 weeks at which time her pain began to return but not at the same level. The claimant was incidentally noted to be 5'1" tall and weigh anywhere between 260 and 273 pounds. The claimant underwent an MRI evaluation and this along with her lumbar spine x-rays seemed to reveal extensive degenerative changes including a grade I spondylolisthesis of L4 on L5. _____ continually documented that the chiropractic care was only of temporary benefit. The claimant seemed mainly to have low back pain; however, she demonstrated some left sided radicular signs and symptoms. _____ stated the claimant had a positive straight leg raise on the left which caused only localized low back pain. The claimant underwent several range of motion and strength evaluations; however, no properly performed FCEs were submitted for review. _____ stated the claimant was at MMI as of 7/14/03 with 5% whole body impairment rating. Only 3 days prior to this, the claimant saw _____ and was reportedly still having strong facet signs and she was noted to be limping slightly in favor of her left leg. The claimant reportedly saw a chiropractor for what appeared to be a designated doctor evaluation on 3/12/03 and was felt to be at MMI on that date; however, I do not have that report for review and I do not know the amount of impairment.

Requested Service(s)

Level 4 office visits, chiropractic manipulation, manual traction, joint mobilization, electrical stimulation unattended, unlisted procedure – nervous system (64999), medical disability exam by treating doctor, chiropractic manipulative technique, manual therapy technique, medical records,

computer data analysis for the dates of service of 6/6/03 through 9/30/03. Some of the listed dates of services are fee disputes and I will not address these.

Decision

I agree with the insurance carrier and find that the services in dispute were not medically necessary. This decision includes all of the listed services including the re-examinations, office visits, and medical disability exam that was performed on 7/14/03.

Rationale/Basis for Decision

By my count, the claimant had undergone about 77 chiropractic and related physical therapy visits prior to the listed disputed dates of service above. The MRI evaluation and diagnostic work ups clearly indicated this claimant had extensive degenerative changes and pre-existing facet arthropathy at multiple levels. The number of visits that were provided by the chiropractor greatly exceeds the recommendations of all known evidence based guidelines for chiropractic management of lumbar sprain/strain injury or lumbar discogenic syndromes including facet syndromes. There were stated improvements in the extensive chiropractic notes; however, the alleged improvements contradicted what _____ was concurrently documenting. There were several FCEs provided for review mainly in January and February 2003; however, these were not properly done and would not constitute a proper FCE. These studies were mostly range of motion and strength examinations and actually showed the claimant was only capable of lifting at the sedentary to perhaps light duty level through 2/14/03 despite the voluminous amount of chiropractic care rendered. It was noted that there was no mention in the chiropractic documentation of left sided buttock or leg symptoms until after the electrodiagnostic tests were performed. These tests showed dermatomal sensory evoked potential evidence of mild left sided L4 radiculopathy. Dermatomal sensory evoked potential evidence of lumbar radiculopathy should immediately be discounted as dermatomal sensory evoked potentials are not the proper test for use in determining the presence of lumbar radiculopathy. At any rate, the documentation continually showed that the chiropractic care was not particularly effective and of course was rather extensive. _____ saw the claimant only 3 days prior to _____ MMI and impairment rating exam, and the claimant was reportedly still limping and had strong facet signs indicative of facet syndrome. I also fail to understand how carrying plates across a room can cause extensive facet syndrome in that the mechanism of injury was not consistent with producing facet syndrome. It should also be noted that the claimant had pre-existing facet arthropathy that was likely the cause of her apparent facet syndrome. The claimant also demonstrated that she had full extension of her lumbar spine on numerous occasions which would also not be likely if the claimant had true facet syndrome. At any rate, _____ continually documented that the claimant only achieved temporary benefit through chiropractic care, yet this chiropractic care continued quite voluminously. The highly evidence based Official Disability Guidelines state that if there is no change in the claimant's condition after 3-4 weeks of chiropractic care, then chiropractic care should be stopped and the claimant re-evaluated. The claimant was also found to be at MMI by another chiropractor as of 3/12/03 in what I assume was a designated doctor evaluation. The documentation supports that the extensive treatment which vastly exceeded the evidence based guidelines did not serve to make this claimant more functional or return her to work in a timely fashion. The stated improvements in the chiropractic documentation did not correlate with the objective data which continued to show a poor functional status after voluminous amounts of chiropractic care had been delivered. The level

and intensity of care would not be considered reasonable or medically necessary given the mechanism of injury of carrying dishes combined with the claimant's rather extensive degenerative changes and overall obesity and poor condition.